



## CITY OF WINCHESTER, VIRGINIA

Rouss City Hall  
15 North Cameron Street  
Winchester, Virginia 22601  
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### BOARD OF ZONING APPEALS AGENDA June 10, 2015 - 4:00 P.M. Council Chambers - Rouss City Hall

#### 1. POINTS OF ORDER

- A. Roll Call
- B. Approval of Minutes April 8, 2015
- C. Reading of Correspondence

#### 2. PUBLIC HEARINGS

**BZA-15-297** Request of David Durbin for a variance of the Winchester Zoning Ordinance Section 10-8 pertaining to corner side yard and Section 10-6-2 pertaining to rear yard at 563 North Cameron Street (*Map Number 153-01-G-9*) zoned Commercial Industrial, CM-1 District. The request is to grant variances of deficient setback requirements and allow for re-use of an existing structure with a permitted by-right use and remove existing variance approval conditions.

#### 3. NEW BUSINESS

#### 4. OLD BUSINESS

#### 5. ADJOURN

**BOARD OF ZONING APPEALS  
MINUTES**

The Board of Architectural Review held its regularly scheduled meeting on Wednesday, April 8, 2015, at 4:00p.m. in Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

**POINTS OF ORDER:**

**PRESENT:** Chairman Pifer, Mr. Crawford, Ms. Marchant, Ms. Anderson, Mr. Lewis

**ABSENT:** None

**STAFF:** Aaron Grisdale, Erick Moore, Carolyn Barrett

**VISITORS:** Steve Stolipher, Sherif Kaiser, Jim Deskins, Chris Oldham, Jeff Jovan

**CONSENT AGENDA:**

Chairman Pifer asked to designate Ms. Anderson as a voting member. Voice vote was taken and the designation was approved.

Approval of Minutes of November 12, 2014:

Chairman Pifer called for corrections or additions to the minutes. Hearing none, he called for a motion. Mr. Lewis moved to approve the minutes as amended. Ms. Anderson seconded the motion. Voice vote was taken and the motion passed 4-0.

**READING OF CORRESPONDENCE:**

None.

**PUBLIC HEARINGS:**

**BZA-15-145** Request of Saint Marina Coptic Orthodox Church for a variance pertaining to enlargement of non-conforming structures pursuant to Section 17-2-2 of the Winchester Zoning Ordinance for the property located at 1905 Henry Avenue (Map number 231-04-N-9 - ><01), zoned Medium Density Residential (MR) district. The applicant is seeking to remove a restriction from a previous variance that limits the use of the building to a Montessori school.

Mr. Grisdale presented the staff report and spoke about the parking situation. He outlined the options for a motion on the request.

*Chairman Pifer opened the public hearing*

The board members asked the applicant questions about the parking available and the parking lot across the street from the property. They also asked about whether the other lot owners had been approached about the parking.

*Chairman Pifer closed the public hearing*

*Chairman Pifer called for discussion from the Board.*

Mr. Grisdale pointed out that with the recusal, all three members would have to vote in the affirmative to pass the motion.

The board members discussed the number of parking spaces and the times that parking is available. As long as the church could secure the small lot across the street, the parking situation would not bother the neighbors.

*Hearing no further questions or discussion from the Board, Chairman Pifer called for a motion.*

*Mr. Lewis made a motion that the Board of Zoning Appeals approve a variance to Saint Marina Coptic Orthodox Church for a variance pertaining to enlargement of non-conforming structures pursuant to Section 17-2-2 of the Winchester Zoning Ordinance for the property located at 1905 Henry Avenue (Map Number 231-04-N-9 -><01), zoned Medium Density Residential (MR) district, with the following conditions:*

- a. All previous variances for this property are hereby null and void.*
- b. The applicant must provide all required parking by a combination of parking provided both on-site as well as through off-street parking agreements pursuant to Section 18-6-3.1 and 18-6-3. 7.*
- c. A site plan be submitted to and approved by the Planning Director to reflect the change in use and document the off-street parking requirements being met.*
- d. The variance is limited to permitted by-right or conditional uses that will not generate a parking requirement in excess of 18 spaces.*

*This variance is approved because:*

- a. The strict application of this Ordinance would produce a clearly demonstrable hardship.*
- b. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.*
- c. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.*

*Ms. Anderson seconded the motion. Roll call vote was taken and the motion passed 3-0. Chairman Pifer recused himself from the vote.*

**BZA-15-150** Request of Milam Landscapes, LLC for variances pertaining to a minimum lot area, minimum lot width and fence regulations pursuant to Sections 10-3-1, 10-4-1 and 18-9-2.8 of the Winchester Zoning Ordinance for the property located at 607 North Cameron Street (Map Number 154-01-A-2 - > <01) zoned Commercial Industrial (CM-1) district. The applicant is proposing to use the property for contractor and landscaping storage.

Mr. Gridale presented the staff report outlining the zoning ordinance and variances requested. He also gave background information concerning the case.

*Chairman Pifer opened the public hearing*

Jim Deskins was sworn in as the representative of Jeffrey Jovan who owns 6.6 acres adjacent to the lot and the Zero Pak building. He spoke about Mr. Jovan's improvements to the property he owns. Mr. Jovan believes it is detrimental to continue to allow non-conforming use for the empty lots. There are several lots in the area that are not large enough to develop.

Mr. Oldham spoke about trying to use the space accordingly. He felt that a storage facility would be a conforming use for that area. No utilities would be needed. Ms. Anderson asked if the fence would be the same as the one on North Loudoun. Mr. Oldham said it would be.

Mr. Jovan spoke about his plans for the properties. He stated that there are issues with parking and traffic. Mr. Lewis asked what the potential use of the building would be. Mr. Deskins said it would be mixed use.

*Chairman Pifer closed the public hearing*

*Chairman Pifer called for discussion from the Board.*

Mr. Crawford asked about by right use. Mr. Gridale said the issue at hand is the parcel itself. At the time it was legally platted, it was under different zoning standards and does not meet today's requirements.

Mr. Crawford pointed out there are plenty of properties in the City where owners had said they were going to improve them yet they still stand vacant. Mr. Lewis said he was all for re-development but he did not see anything happening at this point. Mr. Gridale pointed out there were three different motions to consider in the staff report. Ms. Anderson said anything done with the landscaping would be an improvement. Chairman Pifer said there needs to be some kind of barrier.

*Mr. Crawford made a motion that the Board of Zoning Appeals approve variances to Milam Landscapes, LLC, pertaining to minimum lot area, minimum lot width, and fence regulations pursuant to Sections 10-3-1, 10-4-1, and 18-9-2.8 of the Winchester Zoning Ordinance for the property at 607 N Cameron Street (Map Number 154-01-A-2 - > <01) zoned Commercial Industrial (CM-i) district, with the following conditions:*

*a. A site plan be submitted to and approved by the Planning Director to reflect the change in use, and all site improvements be completed prior to occupancy of the lot.*

*b. The variance is limited to contractor storage yards as permitted in Section 10-1-13(c) of the Zoning Ordinance.*

*This variance is approved because:*

- a. The strict application of this Ordinance would produce a clearly demonstrable hardship.*
- b. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.*
- c. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.*

*Ms. Anderson seconded the motion. Roll call vote was taken and the motion passed 4-0.*

**NEW BUSINESS:**

None

**OLD BUSINESS:**

Ms. Anderson asked about the Roberts Rules of Order retreat. Mr. Grisdale said staff would be organizing it. He asked about member's availability. Mr. Lewis said no Mondays or Fridays.

Mr. Grisdale Introduced Erick Moore as the new Deputy Zoning Administrator starting March 10, 2015.

**ADJOURN:**

With no further business before the Board, the meeting was adjourned at 4:16pm.

**WINCHESTER BOARD OF ZONING APPEALS  
STAFF REPORT AND RECOMMENDATION**

**ISSUE/BACKGROUND**

Case:	BZA-15-297
Applicant:	David Durbin
Location:	563 North Cameron Street
Zoning:	Commercial Industrial (CM-1) District
Future Land Use:	Retail – Antique Salvage.
Legal Notice:	The request for variance was advertised in the <i>Winchester Star</i> on May 28, 2015, and June 4, 2015. The property was required to be posted with a public hearing sign and notices were mailed to property owners within 300' of the subject property.
Applicant's Request:	Request of David Durbin for a variance of the Winchester Zoning Ordinance Section 10-8 pertaining to corner side yard and Section 10-6-2 pertaining to rear yard at 563 North Cameron Street (Map Number 153-01-G-9) zoned Commercial Industrial, CM-1 District. The request is to grant variances of deficient setback requirements and allow for re-use of an existing structure with a permitted by-right use and remove existing variance approval conditions.

**BACKGROUND**

The subject property is located on the west side of North Cameron Street and north side of Wyck Street and is zoned Commercial Industrial (CM-1) district. The immediately surrounding properties on all sides are similarly zoned and consist of a mix of light industrial, office uses and nonconforming residential uses. The neighborhood to the southwest is zoned High Density Residential (HR) district.

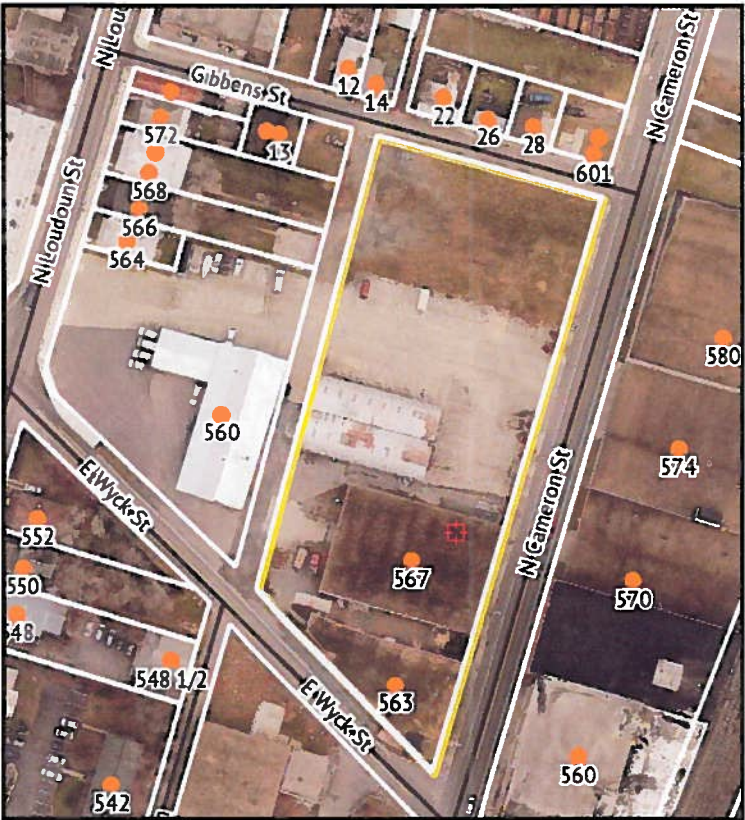


Exhibit A - Vicinity Map

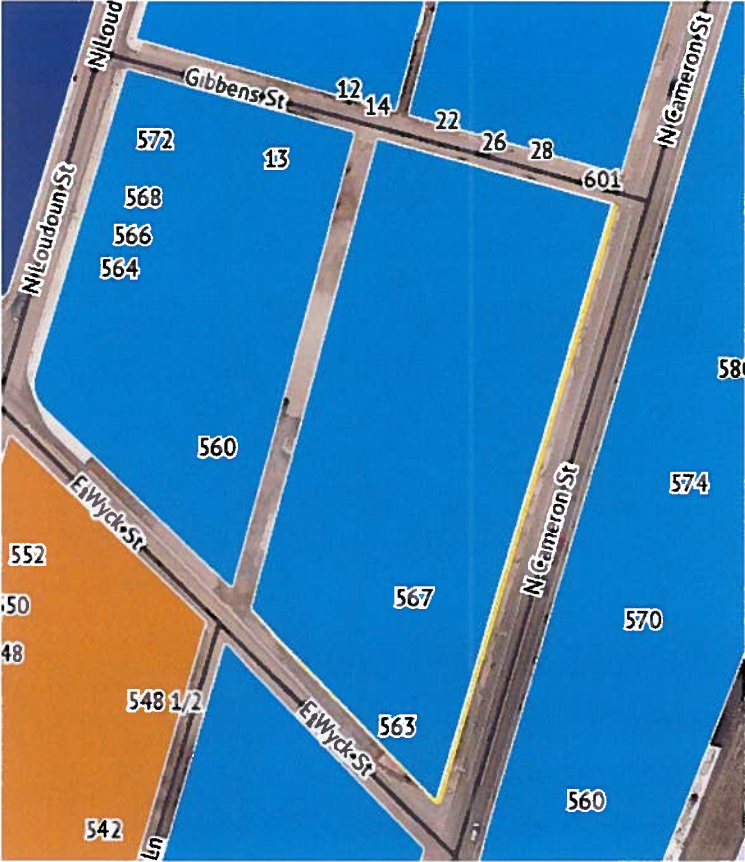


Exhibit B - Vicinity Zoning Map



This 1.8365 acre parcel is currently improved with three structures. The southernmost building is a 14,000 square foot structure with a footprint of approximately 7,000 square feet. The building presently has a corner side yard setback of 3-feet and an approximate rear yard setback of 0-feet. Both of these two dimensions are less than the CM-1 district requirements.

Dimensional Standard	Required	Provided
Corner Side Yard (N Cameron St)	35'	3'
Rear Yard (Wyck St)	25'	0'

In 2006, the Board of Zoning Appeals granted a variance to Habitat for Humanity for adaptive reuse of the structure from warehouse use to a retail Habitat Re-Store use. This approval was conditioned on the variances being approved solely for this proposed use. Since 2006, the Habitat Re-Store was relocated to Abrams Creek Drive off of Featherbed Lane, and the building has been vacant for several years. Since the proposed use is separate and distinct from the specific Habitat Re-Store use that the previous variance was conditioned upon, a variance must be issued by the Board for this proposal.

**STAFF ANALYSIS & CONCLUSION**

According to Section 20-2 of the Ordinance, the Board of Zoning Appeals is required to make three (3) specific findings in order to approve a variance request. These findings are based on evidence, testimony, and demonstration of certain criteria, which are further defined in Section 20-2-3.1 of the Ordinance.

Section 20-2-3.1:

When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size, or shape of a specific piece of property at the time of the effective date of the Ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the Ordinance would effectively prohibit or unreasonably restrict the use of the property or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the



applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the Ordinance.

1. That the strict application of this Ordinance would produce a clearly demonstrable hardship.
2. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
3. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variances.

Overall, staff believes the applicant is making a bare minimum request to have reasonable use of the property. Without the variances, the property could remain practically unusable for the foreseeable future until the unlikely event that the Habitat Re-Store relocates back to this space. Following the previous variance that was granted in 2006, the property was improved with site improvements consistent with Zoning Ordinance requirements for off-street parking, landscaping and other requirement improvements.

*Note:* Staff has not received any letters of support or opposition for this application.

**POSSIBLE MOTION(S)**

*[Approve the variances]*

1. **MOVE**, that the Board of Zoning Appeals **approve** variances of the Winchester Zoning Ordinance Section 10-8 pertaining to corner side yard and Section 10-6-2 pertaining to rear yard at 563 North Cameron Street (Map Number 153-01-G-9) zoned Commercial Industrial, CM-1 District, with the following conditions:
  - a. The variances are limited to retail and warehouse uses.
  - b. Any future changes to the site layout shall be approved in the form of a site plan by the Planning Director, when deemed necessary by the Director.

*The variances are approved because:*

- a. *The strict application of this Ordinance would produce a clearly demonstrable hardship.*
- b. *That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.*

- c. *That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.*

*[Deny the variances]*

2. **MOVE**, that the Board of Zoning Appeals **deny** variances of the Winchester Zoning Ordinance Section 10-8 pertaining to corner side yard and Section 10-6-2 pertaining to rear yard at 563 North Cameron Street (Map Number 153-01-G-9) zoned Commercial Industrial, CM-1 District, for the following reasons:

- a. *The strict application of this Ordinance would not produce a clearly demonstrable hardship.*  
b. *(List any additional reasons)*



Aaron M. Grisdale, CZA  
Director of Zoning and Inspections



CASE #: 15-297  
FEE AM'T: \$725.00  
DATE PAID: 5/20/15

Rouss City Hall  
15 North Cameron Street  
Winchester, VA 22601  
540-667-1815  
TDD 540-722-0782

### APPLICATION FOR BOARD OF ZONING APPEALS

Please print or type all information

David Durbin Applicant  
571-334-0781 Telephone  
deincua@yahoo.com E-mail address  
105 Hill Valley Dr. Street Address  
Winchester City VA State 22602 Zip

CYRUS SQUARE LLC OWNER'S SIGNATURE (use reverse to list additional owners)  
Jolan Telephone 240-876-1952  
CYRUS SQUARE 01@GMAIL.COM E-mail address  
MARYAM HASHEMIAN Owner Name (as appears in Land Records)  
CYRUS LLC., INC  
9908 SORREL AVE Address  
POTOMAC, MD City 20854 State MD Zip

REQUEST TYPE CODE - Please mark type of request and complete information

KEY: V = Variance; AM = Administrative Modification; I = Interpretation

REQUEST TYPE	ORDINANCE SECTION	PERTAINING TO:
<u>V</u>	<u>Section 10-8</u>	<u>corner side yard</u>
<u>V</u>	<u>Section 10-6-2</u>	<u>rear yard</u>

APPLICATION FEE: \$500 for 1st code section; \$100 for each additional code section \$725.00  
Public hearing sign deposit fee: \$50

#### PROPERTY LOCATION

Current Street Address(es) 563 N. Cameron Street Zoning CM-1

Tax Map Identification - (sections, blocks, lots) section 153 - 1 - 6 - 9

#### REQUIRED MATERIALS LIST

- 1 copy of application (this form completed)
- 10 copies of letter explaining request and grounds for request
- 10 Copies of plans/or drawings, and surveys
- Fee (check made payable to the **Treasurer, City of Winchester**)
- List of adjacent property owners (public hearing items only). List must provide name and mailing address as appears in Land Records for owners of all properties within 300 feet of any portion of the subject site. If provided by staff, there is a \$25 fee.
- Disclosure of Real Parties in Interest (list all equitable owners)
- Public Hearing Sign Deposit Fee - \$50 (refundable upon return of sign) \$100 (2 x \$50)

All public hearing materials must be submitted at one time by 5:00 PM on the deadline date for the next regular meeting in order to be placed on the agenda. Only complete applications, which include the above materials, will be accepted.

I/we hereby certify that the above information is complete and correct and that public notification will be properly posted on the site not later than 14 days before the public hearing (if applicable) and that all delinquent real estate taxes have been paid per Section 23-9.

APPLICANT'S SIGNATURE [Signature] DATE 5/20/15

May 17, 2015

Winchester – Frederick County Zoning Board  
City of Winchester  
15 N. Cameron Street  
Winchester, VA 22601

To whom it may concern,

Long Valley Traders LLC is submitting this formal request to have the property at 563 N. Cameron Street, Winchester looked at for two variances of the Winchester Zoning Ordinance.

These variances were previously granted on April 12, 2006 to Habitat for Humanity for their retail operation which is a very similar store as ours.

The two variances of the Winchester Ordinance are Section 10-8 pertaining to the corner side yard and Section 10-6-2 pertaining to the rear yard. This is a very old building that was built in such a way that doesn't match modern codes. If this building were forced to comply with modern codes it would produce undue hardship on the property owner.


Long Valley Traders LLC would like to occupy this building and continue to build a retail business focused on local valley antiques, vintage furniture and architectural historical salvage. Our plan is to occupy this property and build this business long term here. Based on our motto (Repurpose, Re-Use, Recycle) and inspiration is in repurposing our history for modern uses, saving our treasures, re-use our claimed materials to live again and recycle our crafted products to others who need them or can save them.

Our intended purpose of this property is to be an attraction for Winchester City while always staying in the intended spirit of the Ordinance and will not be of any substantial detriment to adjacent properties.

We look forward to many years of doing business in the City of Winchester.

Thank you for your consideration.

Sincerely,  
David Durbin



Long Valley Traders LLC  
571-334-0781

